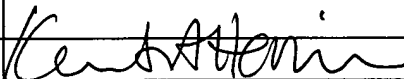



Under the Paper Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/424,052
	Filing Date	May 12, 2000
	First Named Inventor	Sas, Benedikt
	Art Unit	5611
	Examiner Name	Not yet assigned
Total Number of Pages in This Submission	Attorney Docket Number	4532670/20620 (KEM 12)

ENCLOSURES <i>(check all that apply)</i>		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i> Return Postcard
Remarks _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Kent A. Herink
Signature	
Date	January 16, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Type or printed	Jeri D. Krutsinger		
Signature		Date	January 16, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

In you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$110.00)

Complete if Known

Application Number	09/424,052
Filing Date	5/12/2000
First Named Inventor	Sas, et al.
Examiner Name	Not yet assigned
Art Unit	5611
Attorney Docket No.	4532670/20620 (KEM 12)

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit AccountDeposit
Account
Number

12-2250

Deposit
Account
Name

Davis, Brown, Koehn, Shors & Roberts, P.C.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	110.00
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
-20**=	X		
-3**=	X		
Multiple Dependent			

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	**Reissue independent claims over original patent	
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$)

** or number previously paid, if greater; For Reissues, see above


Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$110.00)

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Kent A. Herink	Registration No. (Attorney/Agent)	31025	Telephone	515-288-2500
Signature				Date	January 16, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

#1018353

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
)	Group Art Unit: 5611
Nelson et al.)	
)	
Serial No. 09/424,052)	Examiner: Not yet assigned
)	
Int'l Filing Date: 27 May 1998)	
)	
For: METHOD OF CO-CRYSTALLIZING))	
A FOOD ADDITIVE)	

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181**

01/22/2004 KAYPAGH 00000075 09424052

01 FC:1251

110.00 02

Assistant Commissioner for Patents
P.O. Box 1450
Mail Stop PCT
Alexandria, VA 22313-1450
Attention: PCT Legal Staff

Dear Sir/Madam,

In the matter of the above-identified application for United States Letters Patent and in response to the Notification of Abandonment mailed on November 21, 2002, kindly consider the following remarks.

On January 07, 2000, the United States Designated /Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 was omitted. The notification set a One Month period for response, which would ordinarily mean a due date of February 07, 2000. However, pursuant to provisions of 37 CFR 1.136(a), extension of time is allowable up to July 07, 2000.

On May 16, 2000, Applicant filed a declaration executed by all named inventors in compliance with 37 CFR 1.497 and submitted a Fee Transmittal Letter authorizing the charge of fee required for the four month extension. The PCT Legal Office approved the extension of time in a communication dated August 9, 2000, but advised that the Declaration submitted on May 16, 2000 was not properly executed. The communication

dated August 9, 2000 required that the Applicant either: 1) file a proper declaration; or 2) confirm that which appears to be scribble is in fact the first inventor's signature. The communication set a One Month period for response.

On August 31, 2000, Applicant filed in response a Confirmation of Authenticity of Declaration to confirm that the signature appearing as scribble is indeed the first inventor's authentic signature. A PCT Legal Office response to this communication has not been received to date.

On November 21, 2002, the Commissioner for Patents mailed the aforementioned Notification of Abandonment to Applicant for failure to respond to the Notification of Missing Requirements mailed on January 07, 2000 within the time period set within.

The Notification of Abandonment is apparently issued without regard to the communications dated May 16, 2000, August 9, 2000, and August 31, 2000. The PCT Legal Office acknowledged the four-month extension of time in its August 9, 2000 communication to Applicant and considered the Declaration filed by Applicant on May 16, 2000. The PCT Legal Office further instructed Applicant about measures needed to comply with 37 CFR 1.497 in the August 9, 2000 communication. Applicant submitted a Confirmation of Authenticity of Declaration on August 31, 2000 in compliance with 37 CFR 1.497. It is apparent that Applicant not only responded to the Notification of Missing Requirements of January 07, 2000, but that the PCT Legal Office acknowledged this fact in its August 9 communication to Applicant.

The Commissioner is respectfully urged to withdraw the holding of abandonment in view of the above facts pursuant to 37 CFR 1.181. However, Applicant does realize that the Petition to Withdraw is being filed beyond the 2-month period after the mailing date of the Notification of Abandonment of November 21, 2002. The petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon that would extend beyond the date 20 years from the filing date of the application, or the earliest application to which the application specifically refers under 35 U.S.C. 120, 121, or 365(c). The evidence on record clearly shows that Applicant has been diligently prosecuting this application and Applicant did not intentionally delay the filing of Petition to Withdraw the Holding of Abandonment. The Commissioner is respectfully requested to consider the Petition to Withdraw Holding of

Abandonment on the merits and allow the commencement of examination of this application.

Attached are a copy of Applicant's record of the aforementioned correspondence and an executed TERMINAL DISCLAIMER TO ACCOMPANY PETITION (Form PTO/SB/63) along with a check for the Terminal Disclaimer fee under 37 CFR 1.20(d).

The Commissioner is respectfully urged to call the undersigned attorney at (515) 288-2500 to discuss the present filing in the event that it is not deemed adequate for its intended purpose.

Respectfully submitted,

Date: Jan 16, 2004



Kent A. Herink
Registration No. 31,025
DAVIS, BROWN, KOEHN,
SHORS & ROBERTS, P.C.
666 Walnut St., Suite 2500
Des Moines, Iowa 50309
Telephone: (515) 288-2500

ATTORNEYS FOR APPLICANT

09/424052



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
Washington, D.C. 20231

72

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
----------------------	-----------------------	------------------

09/424,052

NELSON

C

4532670/2062

INTERNATIONAL APPLICATION NO.

5611

PCT/GB98/01549

I.A. FILING DATE

PRIORITY DATE

05/27/98 05/30/97

DATE MAILED:

01/07/00

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494).
☒ an Elected Office (37 CFR 1.495):

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

☐ a non-English language.

☒ English.

☐ Translation of the international application into English.

☐ Oath or Declaration of inventor(s) for DO/EO/US.

☐ Copy of Article 19 amendments.

☐ Translation of Article 19 amendments into English.

☒ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Translation of Annexes to the International Preliminary Examination Report into English.

☐ Preliminary amendment(s) filed _____ and _____.

☐ Information Disclosure Statement(s) filed _____ and _____.

☐ Assignment document.

☐ Power of Attorney and/or Change of Address.

☐ Substitute specification filed _____.

☐ Statement Claiming Small Entity Status.

☒ Priority Document.

☒ Copy of the International Search Report ☒ and copies of the references cited therein.

☐ Other:

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.

☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.

☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).

☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.

☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ 260 as a ☒ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

RECEIVED

MAR 09 2000

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY IN, DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL P.C. RESULT IN ABANDONMENT.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**Docket Number (Optional)
4532670/2062

First named inventor: Nelson

US Application No.: 09/424,052
(if known)

International (PCT) Application Number: PCT/GB98/01549

Filed: May 27, 1998

Title: Method of Co-Crystallizing a Food Additive

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) (as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(h) or 1.495(i).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Proper reply;
- (3) Terminal disclaimer with disclaimer fee — required for all international applications having an international filing date before June 8, 1995; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

- ☐ small entity - fee \$ _____ (37 CFR 1.17(l))
- ☐ small entity statement enclosed herewith.
- ☐ small entity statement previously filed.
- ☒ other than small entity - fee \$ 110.00 (37 CFR 1.17(l))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirements) in the form

of Declaration under 37 CFR 1.497 (identify the type of reply):

- ☐ was previously filed on _____.
- ☒ is enclosed herewith.

[Page 1 of 3]

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box PCT, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S.
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**

- ☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the 35 U.S.C. 371(c) requirements (or a continuing US application) from their due date until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.May 12, 2000

Date



Signature

Telephone

Number: (515) 288-2500Kent A. Herink

Typed or printed name

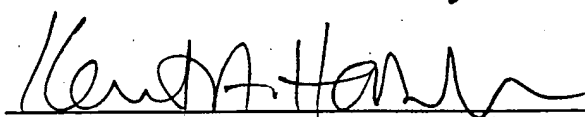
666 Walnut Street, Suite 2500Des Moines, Iowa 50309
AddressEnclosures: ☐ Additional sheets containing statements establishing unavoidable delay☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☐ Small Entity Status Form☐ _____

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE
U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants and by any other party who is presenting statements concerning the cause of delay.

May 12, 2000

Date



Signature

Kent A. Herink

Typed or printed name

(In the space provided below, please explain in detail why the 35 U.S.C. 371(c) elements (or continuing US application) were not timely filed.)

An original Notice of Missing Requirements was issued having a USPTO date mailed entry indicating 01/07/00. The response deadline for the original notice was 02/07/00. However, the original notice was never received in our office. Rather, a copy of the original Jan. 7, 2000 Notice was postmarked in Arlington, VA on March 6, 2000. We received a copy of the original Notice on March 9, 2000. We acted upon the Notice and dispatched to the inventors a combined declaration for execution. The three Belgian inventors executed the declaration in Belgium on 3/29/00 (SAS), 3/23/00 (Ryckaert), and 3/29/00 (Adams). We received the executed declaration in our offices during the week of May 8, 2000.

Based on the foregoing, the entire delay in replying to the original notice was unavoidable due to the unforeseen fault or imperfection of the U.S. Postal Service, or the U.S. PTO, in delivering and/or mailing the original Notice.

A copy of the original notice postmarked on March 6, 2000 in Arlington, VA, was mailed 28 days after the deadline for response. All actions in response to the Notice were timely and diligent and did not lead to the abandonment.

(Please attach additional sheets if additional space is necessary)

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**FEE TRANSMITTAL
for FY 1999**Patent fees are subject to annual revision.
Small Entity payments must be supported by a small entity statement,
otherwise large entity fees must be paid. See Forms PTO/SB/09-12.

TOTAL AMOUNT OF PAYMENT (\$ 500.00

Complete if Known

Application Number	09/424,052
Filing Date	May 27, 1998
First Named Inventor	Nelson
Examiner Name	To Be Assigned
Group / Art Unit	5611
Attorney Docket No.	4532670/20620

METHOD OF PAYMENT (check one)

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number	12-2250
Deposit Account Name	Davis, Brown Law Firm

- ☒
- Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

- 2.
- ☒
- Payment Enclosed:

☒ Check ☐ Money Order ☐ Other**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 760	201 380	Utility filing fee	
106 310	206 155	Design filing fee	
107 480	207 240	Plant filing fee	
108 760	208 380	Reissue filing fee	
114 150	214 75	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
20**			
3**			
Multiple Dependent		260	260

**or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 78	202 39	Independent claims in excess of 3
104 260	204 130	Multiple dependent claim, if not paid
109 78	209 39	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 260.00

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	130.00
127 50	227 25	Surcharge - late provisional filing fee or cover sheet.	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 380	216 190	Extension for reply within second month	
117 870	217 435	Extension for reply within third month	
118 1,360	218 680	Extension for reply within fourth month	
128 1,850	228 925	Extension for reply within fifth month	
119 300	219 150	Notice of Appeal	
120 300	220 150	Filing a brief in support of an appeal	
121 260	221 130	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	110.00
141 1,210	241 605	Petition to revive - unintentional	
142 1,210	242 605	Utility issue fee (or reissue)	
143 430	243 215	Design issue fee	
144 580	244 290	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Petitions related to provisional applications	
126 240	126 240	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 760	246 380	Filing a submission after final rejection (37 CFR 1.129(a))	
149 760	249 380	For each additional invention to be examined (37 CFR 1.129(b))	
Other fee (specify)			
Other fee (specify)			

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 240.00

SUBMITTED BY

Typed or Printed Name: Kent A. Herink

Signature: *Kent A. Herink*

Date: 5/12/00

Complete (if applicable)

Reg. Number: 31,025

Deposit Account User ID: 12-2250

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

COMBINED DECLARATION AND POWER OF ATTORNEY

As the below-named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe that I am an original inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHOD OF CO-CRYSTALLIZING A FOOD ADDITIVE, the specification of which was filed on May 30, 1997, as Great Britain Application No. 9711231.2.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claimed

9711231.2 Great Britain 30/05/98
(Number) (Country) (Day/Month/Year Filed)

[X] []
Yes No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

PCT/GB98/01549
(Applic. Serial No.)

27/05/98
(Filing Date)

Patent Pending
(Status)

POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

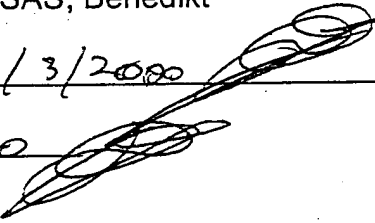
Kent A. Herink	Reg. No. 31,025
Daniel A. Rosenberg	Reg. No. 44,308

Send correspondence and direct all telephone calls to:

Kent A. Herink
DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.
The Financial Center
666 Walnut Street, Suite 2500
Des Moines, Iowa 50309-3993
(515) 288-2500 (phone)
(515) 243-0654 (fax)
E-mail - - kah@lawiowa.com

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: SAS, Benedikt

Inventor's signature 29/3/2000 

Date 29/3/2000

Residence: Belgium

Citizenship: Belgian

Post Office Address: Steenweg op Ravels 209
2360 Oud- Turnhout, Belgium

Full name of second inventor: ~~RYCKAERT~~, Pedro

Inventor's signature 

Date 23/03/2000

Residence: Belgium

Citizenship: Belgian

Post Office Address: Asterlaan 20
2200 Westerlo, Belgium

Full name of third inventor: ADAMS, Clifford

Inventor's signature

C. Adams

Date

29 March 2000

Residence: Belgium

Citizenship: U.K.

Post Office Address: Fruithoflann 101, bus 30
2600 Berchem, Antwerp, Belgium

09 AUG 2000



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Kent A. Herink
DAVIS BROWN KOEHN SHORS & ROBERTS
666 Walnut Street
The Financial Center Suite 2500
Des Moines, Iowa 50309-3993

RECEIVED

AUG 17 2000

DAVIS, BROWN, KOEHN,
SHORS & ROBERTS, P.C.

In re Application of
NELSON
U.S. Application No. 09/424,502
PCT No.: PCT/GB98/01549
Int. Filing Date: 27 May 1998
Priority Date: 30 May 1997
Attorney Docket No. 4532670/2062
For: METHOD OF CO-CRYSTALLIZING A FOOD
ADDITIVE

DECISION ON PETITION

This is a decision on applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.37(a)" filed 19 May 2000.

BACKGROUND

On 27 May 1998, applicant filed international application PCT/GB98/01549 which claimed a priority date of 30 May 1997 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 December 1998. A Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 30 November 1999.

On 17 November 1999, applicant filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied by, inter alia: the basic national fee; a copy of the international application; and amendments to the claims of the international application under PCT Article 19.

On 07 January 2000, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 was omitted. A new oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The notification set a ONE (1) MONTH period for response.

On 16 May 2000, applicant filed a petition under 37 CFR 1.137(a); a declaration and power of attorney; and the surcharge for supplying an oath or declaration later than 30 months from the priority date.

DISCUSSION

The period to respond to the Notification of Missing Requirements was due on or before 07 February 2000. However, pursuant to the provisions of 37 CFR 1.136(a), extensions of time are allowable up to 07 July 2000. The executed declaration, surcharge fee required under 37 CFR 1.492(e), and multiple dependant claim fee required in the Notification Requirements were received on 16 May 2000. Pursuant to 37 CFR 1.136(a)(3), the Fee transmittal letter includes authorization to charged the required four month extension. Accordingly, the petition to revive was filed prematurely. In view thereof, the petition to revive is unnecessary and is dismissed as moot. Deposit Account No. 12-2250 will be refunded the \$110 petition fee.

The declaration submitted on 16 May 2000 does not appear to have been properly executed, as required under 37 CFR 1.497(a). Specifically, is not clear whether the signature of the first inventor has signed the declaration, as a date appear in the signature line followed by scribble not resembling a signature.

CONCLUSION

The petition under 37 CFR 1.137(a) is DISMISSED as moot.

As authorized in the fee transmittal sheet, the four-month extension of time fee of \$1360 will be charged to Deposit Account No. 12-2250 and the \$110 petition fee will be refunded.

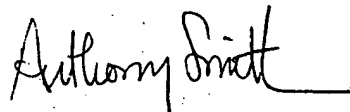
Applicant is given **ONE MONTH** from the mailing date of this decision to file a proper declaration in compliance with 37 CFR 1.497 (a) and (b) executed by all of the named inventors or to confirm that what appears to be scribble is in fact the first inventor's signature. Failure to provide an appropriate response will result in abandonment.

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



Boris Milef
Legal Examiner
PCT Legal Office



Anthony Smith
Petitions Attorney
PCT Legal Office
Tel.: 703-308-6314

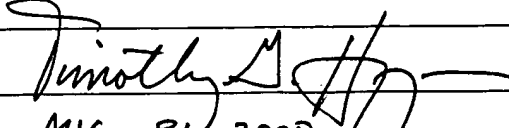
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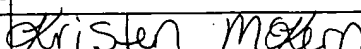
PTO/SB/21 (6-98)
Approved for use through 09/30/2000. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/424,502	
	Application Date	May 27, 1998	
	First Named Inventor	Nelson	
	Group Art Unit	5611	
	Examiner Name		
Total Number of Pages in This Submission	3	Attorney Docket Number	4532670/20620

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Additional Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	postcard, Confirmation of Authenticity of Declaration
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	Deposit Account Authorization: In the event no specific fee has been authorized above or if a check is detached or misplaced, the Commissioner is authorized to charge the TOTAL DUE to our deposit account No. 12-2250. Any adjustment in the TOTAL DUE should be made to our deposit account No. 12-2250.
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Timothy G. Hofmeyer, Esq., Davis, Brown, Koehn, Shors & Roberts, P.C.
Signature	 7-46,777
Date	AUG. 31, 2000

CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date 08/31/00	
Typed or printed name	Kristen T. McKern
Signature	 Date 8/31/00

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

FILE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
Nelson et al.)	Group Art Unit: 5611
Serial No. 09/424,502)	
Int'l Filing Date: 27 May 1998)	Examiner: Not yet assigned
For: METHOD OF CO-CRYSTALLIZING))	
A FOOD ADDITIVE)	

CONFIRMATION OF AUTHENTICITY OF DECLARATION
FILED UNDER 37 C.F.R. § 1.497

Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231
Attention: PCT Legal Staff

Dear Sir:

In the matter of the above-identified application for United States Letters Patent and in response to the Decision on Petition mailed on August 9, 2000, kindly consider the following remarks.

On May 16, 2000, Applicant filed a declaration executed by all named inventors in compliance with 37 C.F.R. § 1.497. In response, the PCT Legal Office requested in a communication dated August 9, 2000, that the Applicant either: 1) file a proper declaration; or 2) confirm that what appears to be scribble is in fact the first inventor's signature.

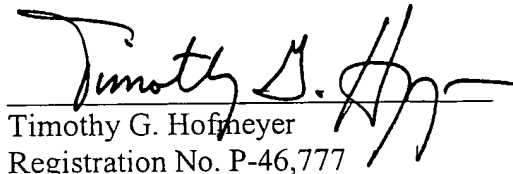
In reply to the request of the PCT Legal Office, Applicant confirms that what appears to be scribble in the above-identified declaration filed on May 16, 2000 is in fact

the first inventor's signature. To support the statement of confirmation, attached is an unrelated document wherein the first inventor's authentic signature appears in three separate signature blocks, consistent with the signatures contained therein, and consistent with the signature as it appears in the above-identified declaration filed on May 16, 2000.

The PCT Legal Staff is respectfully urged to call the undersigned attorney at (515) 288-2500 to discuss the present filing in the event that it is not deemed adequate for its intended purpose.

Respectfully submitted,

Date: 8/31/00



Timothy G. Hofmeyer
Registration No. P-46,777
DAVIS, BROWN, KOEHN,
SHORS & ROBERTS, P.C.
666 Walnut St., Suite 2500
Des Moines, Iowa 50309
Telephone: (515) 288-2500

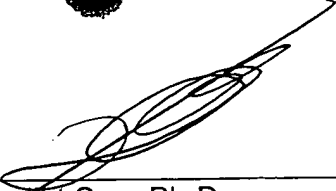
ATTORNEYS FOR APPLICANT

And I do hereby authorize and request the Commissioner of Patents to issue any and all Letters Patent which may be granted upon any of the said applications, to the said Kemin Industries, Inc., as the assignee of the entire interest therein.

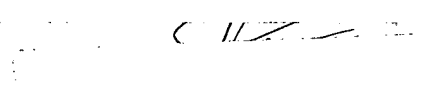
IN WITNESS WHEREOF, I have hereunto signed my name on the day and year set forth below.

COPY


First
Inventor:

Signature: 
Name: Benedikt Sas, Ph.D.
Date: 26/5/00

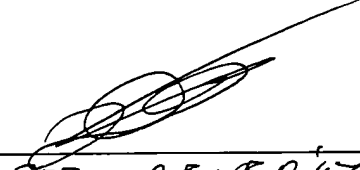
Witness:

Signature: 
Name: _____
Date: _____

Second
Inventor:

Signature: 
Name: _____
Date: _____

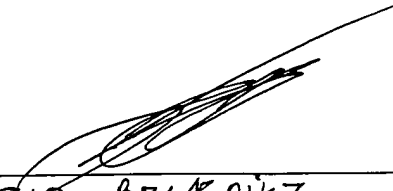
Witness:

Signature: 
Name: SAS BENEDIKT
Date: 26/5/00

Third
Inventor:

Signature: _____
Name: _____
Date: _____

Witness:

Signature: 
Name: SAS BENEDIKT
Date: 26/5/00



UNITED STATES PATENT AND TRADEMARK OFFICE

 Commissioner for Patents, Box PCT
 United States Patent and Trademark Office
 Washington, D.C. 20231
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/424,052	CHRISTOPHER E NELSON	4532670/2062

INTERNATIONAL APPLICATION NO.

PCT/GB98/01549

IA. FILING DATE	PRIORITY DATE
-----------------	---------------

05/27/1998

KENT A HERINK
 DAVIS BROWN KOEHN SHORS & ROBERTS
 666 WALNUT STREET
 THE FINANCIAL CENTER SUITE 2500
 DES MOINES, IA 503093993

CONFIRMATION NO. 7499

371

ABANDONMENT/TERMINATION
 LETTER



OC000000009139829

Date Mailed: 11/21/2002

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated Office (37 CFR 1.494), has made the following determination:

- Applicant has failed to respond to the notification of MISSING REQUIREMENTS, mailed 01/07/2000 within the time period set therein.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.494, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

VONDA M WALLACE

Telephone: (703) 305-3736

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)

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DEC 02 2002

DAVIS BROWN, KOEHN
 SHORS & ROBERTS, P.C.

K.M. 18

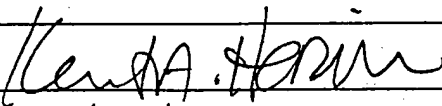
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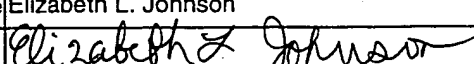
PTO/SB/21 (6-98)
Approved for use through 09/30/2000. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<h1>TRANSMITTAL FORM</h1> <p>(to be used for all correspondence after initial filing)</p>	Application Number	09/424,052
	Application Date	May 27, 1998
	First Named Inventor	Nelson
	Group Art Unit	5611
	Examiner Name	To Be Assigned
Total Number of Pages in This Submission		9
Attorney Docket Number		4532670/20620

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input checked="" type="checkbox"/> Petition Routing Slip (PTO/SB/61) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Request for Refund	
<input checked="" type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	Deposit Account Authorization: In the event no specific fee has been authorized above or if a check is detached or misplaced, the Commissioner is authorized to charge the TOTAL DUE to our deposit account No. 12-2250. Any adjustment in the TOTAL DUE should be made to our deposit account No. 12-2250.
<input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.495		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Kent A. Herink, Esq., Davis, Brown, Koehn, Shors & Roberts, P.C.
Signature	
Date	5/12/2000

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date May 12, 2000			
Typed or printed name	Elizabeth L. Johnson		
Signature		Date	5-12-00

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